IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

Case No. 5:25-CV-00287-M

MATTHEW PRIVETTE,)
Plaintiff,)
v.	ORDER
AT&T INC.; AT&T ENTERPRISES, LLC; and)
BELLSOUTH TELECOMMUNICATIONS, LLC d/b/a AT&T NORTH CAROLINA,))
Defendants.)

This matter comes before the court on a Stipulation of Dismissal of AT&T Inc. Only Without Prejudice [DE 18]. The parties seek to dismiss only one Defendant, AT&T Inc., from this case.

Typically, to remove a defendant from a civil action, a plaintiff should seek amendment of the operative pleading pursuant to Rule 15; however, as the present request is stipulated and because the standards governing Rule 15 and Rule 41(a) are not inconsistent as applied here, the court will address whether the requested dismissal is proper.

Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure authorizes the court to dismiss an "action" upon a "stipulation of dismissal signed by all parties." In ruling on a *motion* seeking dismissal under Rule 41(a), the Fourth Circuit instructs that the primary consideration is whether the defendant suffers prejudice; in fact, such motion should not be denied absent a showing of "legal" or "unfair" prejudice to the defendant. *See Ellett Brothers, Inc. v. U.S. Fidelity and Guar.*

¹ Rule 15 provides that a court "should freely give leave [to amend] when justice so requires." Fed. R. Civ. P. 15(a).

Co., 275 F.3d 384, 388 (4th Cir. 2001); see also Davis v. USX Corp., 819 F.2d 1270, 1273 (4th Cir. 1987) ("The purpose of Rule 41(a)(2) is freely to allow voluntary dismissals unless the parties will be unfairly prejudiced.").

Here, AT&T Inc. has filed a motion to dismiss Plaintiff's claims against it (DE 15, 16), which remains pending, and the company has proffered no argument concerning whether it will suffer prejudice under these circumstances² and the court discerns none. Accordingly, Plaintiff's claims against AT&T Inc. are DISMISSED WITHOUT PREJUDICE, and the Clerk of the Court is directed to remove AT&T Inc. from the caption of this case. The pending Motion to Dismiss [DE 15, 16] is DENIED as moot.

SO ORDERED this _____ day of July, 2025.

RICHARD E. MYERS II

CHIEF UNITED STATES DISTRICT JUDGE

² Therefore, the court need not consider factors that "may bear on whether the defendant will suffer legal prejudice by a dismissal." See Tingling v. OCAHO, No. 21-1945, 2023 WL 3221738, at *2 (4th Cir. May 3, 2023); Fid. Bank PLC v. N. Fox Shipping N.V., 242 F. App'x 84, 89 (4th Cir. 2007).